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| IN THE COUNTY COURT OF VICTORIA AT MELBOURNE | Court Reference: CR-ZZ-ABABAC Indictment No: G1101101 |

CRIMINAL JURISDICTION

IN THE MATTER OF Section 182 of the *Criminal Procedure Act* 2009

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|  **Director of Public Prosecutions****v** **BEN HITCHCOCK**  |

**SUMMARY OF PROSECUTION OPENING**

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| Date of Document:Filed on behalf of: | The Director of Public ProsecutionsSolicitors code:Reference:Telephone:File Number: |  |

1. Ben Hitchcock (HITCHCOCK) was born in April 1978, and is presently 39 years of age.
2. A firm of architects had a service company, Awesome IT Melbourne, which dealt with the administration of the business, and employed the staff.
3. HITCHCOCK commenced employment in 2009 and continued until his termination in mid 2014.
4. HITCHCOCK was employed as the Information Technology Manager, and was responsible for the maintenance of the system used by the architects and staff, and all technological equipment and all necessary upgrades and purchases. As part of his duties, he was authorised to place purchase orders for payment by Awesome IT Melbourne.
5. Awesome IT Melbourne had an accounting system for authorising electronic payments for its business requirements. In addition, one of the directors had a credit card, which was available for payments required to be made for the business in telephone transactions. There was a second card as well. HITCHCOCK had access to the Amex card for genuine business payments.
6. The business used various computing products. It did not use any Apple products.
7. In October 2014, an invoice from Top Computers ( CHARGE 5) raised concerns with the Practice Manager as the banking details of the supplier for electronic payment had changed. Enquiries were undertaken and it was established that the new bank account details belonged to HITCHCOCK and that the invoice concerned purchases of Apple Macbook laptop computers.
8. Top Computers were consulted and copies of their Tax Invoices were obtained and compared to Top Computers invoices provided by HITCHCOCK and held by Awesome IT Melbourne, and it was uncovered that the invoices did not match. This discovery led to an investigation of transactions of HITCHCOCK whilst employed and to this prosecution.
9. The Indictment comprises 5 charges, of which Charges 1,2 and 3 are rolled up charges of obtaining financial advantage by deception in the period of August 2011 to 29 September 2014, and two individual charges in August and September 2014.

**THE APPLE TRANSACTIONS -CHARGE 1**
10. An examination of company credit card payments to the Apple Store identified 68 purchases between 26 August 2011 and 16 September 2013, totalling $80,755.43 relating to Apple products apparently supplied to the architectural business.
11. HITCHCOCK had provided tax invoices from Apple to support the purchases entered on the credit card statements-these documents were later established to be false documents, after original copies were obtained from Apple.
12. In the period of 2011 to 2013, HITCHCOCK had placed orders with Apple for the acquisition of 69 IPhones, 2 Apple Macbook Air Laptops, 4 Apple Macbook Pro laptops and 4 iPads. None of these products were received by Awesome IT Melbourne
13. HITCHCOCK had acquired all the Apple products for resale on web sites, such as E Bay.
14. Investigation of the Apple tax invoices revealed HITCHCOCK had reproduced Apple invoices that removed the product description and converted the description to model numbers, or words describing the item as motherboard. All these tax invoices supplied to accounting staff at Awesome IT Melbourne were false documents. The staff believed the documents to be genuine and paid the credit card statements. Schedule A of charge 1 lists and describes each tax invoice.
15. In July 2013, a director had reason to question HITCHCOCK as to why the business was buying so many motherboards, and HITCHCOCK was directed to seek a refund concerning a $6,432.53 transaction of goods yet to be delivered. HITCHCOCK later produced a letter undated purportedly from Apple signed in the name of Daniel Adams which stated a refund would be made. It was a false letter. Apple had no such employee. Exhibit no 95 in hand up brief at page 678.

**THE OPTUS TRANSACTIONS- CHARGE 2**
16. In the examination of the credit card statements, staff were able to identify that payments made connected to a billing number 0011972 were not actually connected to the architectural business, and were in fact personal payments for transactions of HITCHCOCK.
17. Between the 14th day of November 2011 and the 8th day of August 2013, the credit cards of the business had been used by HITCHCOCK to make 16 payments totalling $4,387.35 in respect to his personal matters. Schedule B lists each payment.
18. HITCHCOCK had produced to staff false invoices describing the payments as replacement parts, installation costs and dongle usage over quota, which staff believed were genuine documents in support of transactions listed in the Optus statements.
19. Optus have confirmed the billing number used-paragraph 16 was registered to HITCHCOCK, and the contact number was HITCHCOCK’s mobile number.

**THE TOP COMPUTERS TRANSACTIONS- CHARGE 3**
20. An examination of the Top Computer’s tax invoices ,being ones obtained from Top and then compared to the invoices supplied by HITCHCOCK to accounting staff, revealed that HITCHCOCK had reconstructed the invoices to disguise the products being supplied. The products were not related to the business and were never received.
21. An audit of the invoices revealed HITCHCOCK had ordered and been supplied with 3 Apple Macbook Air laptops,1 HP laptop and 46 Macbook Pro laptops for a total of $74,989.44 in the period of 5th July 2013 and 29 September 2014. Schedule C lists each transaction.
22. The staff had relied upon the false Top Computer tax invoices as genuine and paid a total of $74,986.44 to Top Computer’s bank account.

**SINGLE TOP COMPUTER TRANSACTION-CHARGE 4**
23. On 22 August 2014, staff made an electronic payment to a bank in the amount of $3,129.50 believing it was a genuine Top Computer tax invoice-Exhibit 135, page 890 hand up brief. The description of the product was Microsoft SQL 3 year license fee and upgrade.
24. The investigation revealed the bank account belonged to HITCHCOCK - Exhibit 172, page 1032.

**ATTEMPTED SINGLE TRANSACTION TOP COMPUTER-CHARGE 5**
25. In early October, HITCHCOCK produced a Top Computer tax invoice for $2,549,and sought staff to make a quick payment, and whilst preparing to act on HITCHCOCK’s request a staff member noted the change of bank payee details and referred the matter to the practice manager refer paragraph 7.
26. The staff investigation revealed the bank account did not belong to Top Computers, and later enquiries established the account was connected to HITCHCOCK -Exhibit 136,page 896 and 168,page 1010.
27. The invoice was not paid.
28. The matter was reported to police on 20 October.
29. Police investigation s established HITCHCOCK lived with his parents HITCHCOCK had opened an Ebay account in his mother’s name in November 2008. and the connecting IP address was that of his employer, the victim in this matter.
30. Records obtained reveal that HITCHCOCK had listed for sale on that EBay account-14 Apple Macbook Pro laptop computers,11 Apple Macbook Air laptop computers, and 78 I Phones.
31. HITCHCOCK had also opened an Ebay account using his fathers name. The mobile number of HITCHCOCK was connected to both Ebay accounts.
32. Records obtained reveal that HITCHCOCK had listed 3 Apple Macbbok Pro computers for sale.
33. HITCHCOCK had an existing PayPal account, and his user names were linked under the auction details of both Ebay accounts with a connection to HITCHCOCK’s account. He also opened a PayPal account in the name of Ben Hitchcock with the above linkages., and it was connected to an ING account.
34. PAYPAL records the following:

Sales under mother’s Ebay account of $65,757.08-June12 to Oct 14 (Exhibit 139):
Sales under father’s Ebay account of $13,258.91-Apr to Oct 14;
Withdrawals to HITCHCOCK of $49,858.84 -Feb 12 to May 14( Exhibit 141)
35. Investigations revealed the name HITCHCOCK was used for an account on Gumtree to advertise for sale items and identified as 16 Macbook Pro Laptops listed for sale between 20 January and 29 June 2014.
36. The total of the Charges 1 to 4 is $163,258.72.
37. No recovery of any proceeds from HITCHCOCK to date.
38. HITCHCOCK participated in a Record of Interview on 4th June 2015.In that interview HITCHCOCK admitted to creating false tax invoices of Apple Store and Top Computers on his work computer, and claimed this activity was done at the direction of a director and that funds from the sales of items obtained were used on upgrades to computers at his employers business. He admitted to creating the false letter from Apple. He claimed permission to use the Optus account of business for his personal expenses.
39. The director denies the claims of HITCHCOCK in the record of interview.
40. The maximum sentence is 10 years imprisonment for Obtaining Financial Advantage by Deception, and the maximum sentence for an attempt is 5 years.
41. The following Orders are sought-s464ZF(2),and two Compensation Orders-one for victim $113,258.72 and one for victim’s insurer for $50,000 (being a payout to victim re this offending)

 PLEA PROSECUTOR